

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

QUIRY ALCANTARA,

Petitioner,

– against –

KEYSER,

Respondent.

ORDER

20 Civ. 3079 (ER)

RAMOS, D.J.:

Quiry Alcantara filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 on April 16, 2020, seeking release from custody at Sullivan Correctional Facility in Fallsburg, New York due to the conditions during the COVID-19 pandemic and his underlying health issues. Doc. 1. Defendant responded on December 13, 2021. Doc. 21. Mr. Alcantara has since written the Court twice requesting release. Docs. 26 and 27. Mr. Alcantara is advised that the Court stayed this case on April 6, 2022 in order to await the decisions of the Second Circuit Court of Appeals in three cases that are currently pending there: *Acevedo et al. v. Capra*, No. 21-1822 (docketed July 23, 2021); *Brooks v. Annucci*, No. 21-852 (docketed Apr. 2, 2021); and *Green v. Quiros*, No. 21-1160 (docketed Mar. 3, 2021). Those cases also deal with the issue of the proper procedure under which to request release from state custody due to exposure to COVID-19, as there is disagreement as to whether such requests must be brought as a petition for habeas corpus under 28 U.S.C. § 2254 (Mr. Alcantara’s method) or as a complaint under 42 U.S.C. § 1983. Accordingly, those decisions will provide guidance that this Court will have to follow in deciding Mr. Alcantara’s case.

As the Second Circuit has not yet issued decisions in those three cases, this case remains stayed. The Clerk of Court is respectfully directed to mail a copy of this order to Mr. Alcantara.

It is SO ORDERED.

Dated: August 5, 2022
New York, New York



Edgardo Ramos, U.S.D.J.